IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

(1)	F.A. No. 81 of 2001, (Old No. 388 of 1997) State of U.P. & another	vs.	Sri Devendra Datt Chamoli,
(2)	F.A. No. 430 of 2001, State of U.P. & another,	vs.	Sri Surat Singh,
(3)	F.A. No. 426 of 2001, State of U.P. & another	vs.	Sri Ranjeet Singh,
(4)	F.A. No. 425 of 2001, State of U.P. & another,	vs.	Sri Veer Singh & Others,
(5)	F.A. No. 427 of 2001, State of U.P. & another,	vs.	Sri Matwar Singh & others,
(6)	F.A. No. 429 of 2001, State of U.P. & another,	vs.	Sri Shiv Ram & others,
(7)	F.A. No. 431 of 2001, State of U.P. & another,	vs.	Sri Fakira,
(8)	F.A. No. 82 of 2001, State of U.P. & another,	vs.	Sri Narayan Singh,
(9)	F.A. No. 83 of 2001, State of U.P. & another,	vs.	Sri Shakti Prasad Saklani
(10)	F.A. No. 84 of 2001, State of U.P. & another,	vs.	Sri Gowar Singh & another,
(11)	F.A. No.85 of 2001, State of U.P. & another	vs.	Sri Surendra Singh,
(12)	F.A. No. 87 of 2001, State of U.P. & another,	vs.	Smt. Hari Kala,
(13)	F.A. No.88 of 2001, State of U.P. & another,	vs.	Sri Matwar Singh,
(14)	F.A. No.91 of 2001, State of U.P. & another,	vs.	Sri Indra Datt,
(15)	F.A. No.92 of 2001, State of U.P. & another,	vs.	Sri Magan Singh,

(16) F.A. No.93 of 2001,
State of U.P. & another, vs. Sri Chintamani,

(17) F.A. No.97 of 2001,
State of U.P. & another, vs. Sri Radhey Shyam,

(18) F.A. No.96 of 2001,
State of U.P. & another, vs. Sri Govind Singh,

(19) F.A. No.95 of 2001,
State of U.P. & another, vs. Sri Kundan Singh,

(20) F.A. No.94 of 2001,
State of U.P. & another, vs. Sri Bhola Singh,

(21) F.A. No.99 of 2001,
State of U.P. & another, vs. Sri Vachaspati Saklani,

(22) F.A. No.100 of 2001,
State of U.P. & another, vs. Sri Prem Singh,

(23) F.A. No.101 of 2001,
State of U.P. & another, vs. Smt. Sukhdei,

(24) F.A. No.326 of 2001,
State of U.P. & another, vs. Sri Itwar Singh,

(25) F.A. No.102 of 2001,
State of U.P. & another, vs. Smt. Jamuna Devi,

(26) F.A. No. 103 of 2001,
State of U.P. & another, vs. Sri Pratap Singh,

(27) F.A. No. 502A of 2001,
State of U.P. & another, vs. Sri Matwar Singh & others,

(28) F.A. No.502 of 2001,
State of U.P. & another, vs. Sri Hari Chand.

Standing Counsel for the appellant
Sri Ashok Aggarwal, learned counsel for respondent.

Date:September 20, 2004.

Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

These appeals have been field against the judgment and award dated 28.4.1997 passed by the Addl.

District Judge, Dehradun Sri Rameshwar Singh, in Land Acquisition reference Cases No.504/91, 516/91, 511/91, 506/91, 525/91, 494/91, 497/91, 501/91, 188/91, 503/91, 507/91, 509/91, 522/91, 524/91, 523/91, 508/91, 513/91, 518/91, 521/91, 512/91, 187/91, 505/91, 500/91, 517/91, 498/91, 495/91, 502A/91, and 502/91 all of which were filed against award dated 28.4.1990 passed by the Collector/Land Acquisition Officer, Dehradun.

2- The land of village Raipur, Parvadoon, Dehradun measuring 69.99 acres was acquired by the State of U.P. for the purpose of establishing a Sports College, for which Notification under section 4(1) of the Land Acquisition Act was published in the local newspapers on 18.3.1988, while notification under section 6 of the Act was published on 30.4.1988, and possession of the acquired properties was taken by the State of U.P. on 30.12.1988. The Land Acquisition Officer relying on the sale deed dated 19.7.1986 executed by Bhupendra and Surendra in favour of Sri M.M. Ghoshal in respect of 0.19 acre land for a consideration of Rs.20,000/- fixed the market rate of the land in question at Rs. 1,05,263.15 per acre. Objections were filed by the different owners of the land before the Collector, requesting for reference under section 18 of the Land Acquisition Act to the effect that their land was in every respect fit for residential purposes as it had all the facilities of roads, light and water, bazaar and important institutions of Government of India are located near this land and employees of these institutions have their residential colonies nearby and that the compensation paid to them is on a very low side basing on a wrong exemplar sale-deed of lower value while they should have been paid compensation

on the basis of exemplar sale-deed giving highest value, and clamed at least Rs.4,00,000/- per acre for their land equally and not different rates according to the different type of land as fixed by the Spl. Land Acquisition Officer. In reply to these references, it was stated on behalf of the State that the land in question is away from abadi and the alleged institutions of Government of India and at the time of acquisition there was not road in the land and proper compensation has been paid to everybody on the basis of exemplar sale-deed.

3- The learned Reference Court framed issues in the case and afforded opportunity to the parties to lead their respective oral and documentary evidence. The petitioners in their statements deposed that they have been paid very low compensation while there was every comfort of road, water, electricity and police station towards north of their land. Cantonment area and road and developed market also adjoined. Bank, school, bus stop, Ordnance Factor, Jal Sansthan and residential colonies were also there and denied the suggestions made to the contrary on behalf of the opposite party to the contrary. In their oral evidence they claimed compensation at the rate of Rs.5,00,000/- per acre and field certified copies of two sale-deeds of lands near the acquired land giving the rate of land the village at Rs.3,92,400/- and Rs.4,00,000/- per acre executed on 31.8.1987 and 29.8.1987 respectively. They also filed the guide map published by Survey of India to prove the location of their land. The learned Reference Court after hearing arguments on their behalf, found that the compensation awarded by the Special Land Acquisition Officer was inadequate and proper compensation for the land was Rs. 3,73, 000/- per acre. The

learned Reference Court also ordered 25% deduction from the actually enhanced amount of compensation with regard to largeness of area, park, roads and school factors, and on this balance amount, the petitioners will be entitled to solatium, additional amount @ 12% with interest at 9% for the first year after the taking over possession by the State and for the rest period at the rate of 15% p.a. till payment.

4- In the appeal before us, it has been argued that the land under acquisition forms part of a large area of land measuring about 69 acres and the Special land Acquisition Officer had determined market value of the specific plots according to their nature, quality and location and the court below increased the market value of the land to Rs.3,73,000/- with a deduction of only 25% on the enhanced amount for all kinds of land.

5- However, during arguments the learned Standing Counsel and learned counsel for the respondents compromised the matter and agreed that these appeals be decided after allowing 33% deduction instead of 25% deduction. This deduction of 33% also to our mind appears reasonable. In this context, a reference may be made to (1996) *9 Supreme Court Cases 640, Basavva (SMT) and others vs. Special Land Acquisition Officer and others* referring to the other decisions of Hon'ble Supreme Court, held deduction between 33 ½ to 53% from market value for development charges to be valid and even approved the additional 12% deduction by the High Court above this limit. The Hon'ble Apex Court in the case ***H.P. Housing Board versus Bharat S. Negi and others,*** reported in ***(2004) 2 Supreme Court Cases, page 184*** has further held that as all the sale instances are of small pieces of

lands and the acquisition is of the large piece of land, a deduction of 33 –1/3% must be made towards development cost. In view of the law laid down by the Apex Court in H.P. Housing Board's cased (supra) We, accordingly, hold that the compensation should be paid to the respondent in each case after making deduction of 33-1/3% from the difference of compensation amount enhanced by the learned Reference Court in respect of market value of the land in question on which solatium, additional compensation and interest shall also be paid as directed by the learned Reference Court.

6- All these appeals are allowed partly. The compensation shall be paid to the respondent in each case after making deduction 33-1/3% instead of 25 deduction. No order as to costs.

(B.S. Verma, J.) **(P.C. Verma, J.)**

SPA/20.9.2004